

REMARKS

Claims 15-17, 19, and 20 are pending. Claims 15 and 19 stand rejected, claims 16 and 17 are objected to, and claim 20 stands allowed. Claims 15 and 19 are amended herein to recite methods for detecting melanoma cells in a human host, and to recite detecting the melanoma cells if immune complexes are present. Support for these amendments can be found in Applicants' specification at, for example, page 6, lines 13-16, and in original claim 1. No new matter is added by these amendments.

In light of these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of claims 15-17 and 19 in addition to claim 20.

Examiner Interview

The undersigned agent thanks the Examiner for the courtesy of a telephonic interview on August 7, 2009. The outstanding rejection and the claim amendments presented herein were discussed during the interview.

Rejection under 35 U.S.C. § 102

The Examiner rejected claims 15 and 19 under 35 U.S.C. § 102(b), alleging that they are anticipated by the Grinnell patent (U.S. Patent No. 5,270,168) as evidenced by the Trefzer et al. reference (*BMC Cancer* (2006) 6:12). The Examiner refused to give patentable weight to the phrase "method for detecting the presence of melanoma in a human" because it appears in the preamble, nor did the Examiner give patentable weight to the phrase "as indicative of the presence of melanoma cells," because it "simply expresses the intended result of a process step positively recited." Office Action at page 3. Stating that the Trefzer et al. reference provides evidence that the SM5-1 antibody binds the ED-A isoform of fibronectin, the Examiner asserted that the Grinnell patent discloses a method in which "wound fluid type B" is contacted with an anti-ED-A antibody in a Western blot procedure. The Examiner further asserted that although the Grinnell patent does not specifically teach that the anti-ED-A antibody competitively inhibits specific binding of the recited antibody to the recited antigen, the presently recited methods

appear “to use the same antibody in terms of binding specificities to the ED-A fibronectin, absent a showing of of unobvious differences.” Office Action at page 3.

To further prosecution, Applicants have amended claims 15 and 19 to recite methods for detecting melanoma cells in a human host, and to recite detecting the melanoma cells if immune complexes are present. Applicants submit that the latter phrase in particular should be given patentable weight, as it does not simply express the intended result of a process step positively recited. Applicants further submit that the Grinnell patent as evidenced by the Trefzer et al. reference does not render present claims 15 and 19 obvious. This is particularly true given that the Grinnell patent fails to suggest using the antibody disclosed therein to detect melanoma cells as recited in the present claims. Thus, claims 15 and 19 are patentable over the cited art.

Claim Objections

The Examiner objected to claims 16 and 17 as being dependent upon a rejected base claim. Given the amendment to claim 15, from which claims 16 and 17 depend, Applicants respectfully request withdrawal of the objection to claims 16 and 17.

CONCLUSION

Applicants submit that in addition to claim 20, claims 15-17 and 19 are in condition for allowance, which action is respectfully requested. The Examiner is invited to telephone the undersigned agent if such would further prosecution.

Please charge \$490 for the Petition for Extension of Time fee, and apply any other charges or credits, to deposit account 06-1050.

Respectfully submitted,

Date: /August 7, 2009/

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